

United States Bankruptcy Court
Eastern District of Virginia
Alexandria Division

In RE:
Young Sil Koh

BCN#: 22-10173-KHK
Chapter: 13

Debtor

DEUTSCHE BANK NATIONAL TRUST
COMPANY, as Trustee for MORGAN
STANLEY MORTGAGE LOAN TRUST
2004-11AR, MORTGAGE PASS-
THROUGH CERTIFICATES, SERIES
2004-11AR
or present noteholder,

Motion for Order Granting Relief From
Automatic Stay and Co-Debtor Stay for Bad
Faith in Filing for Injunction Preventing
Subsequent Filings as to Movant and Notice of
Motion and Hearing

Movant/Secured Creditor,
v.
Young Sil Koh
Debtor
Young Ki Yun
Co-Debtor
and Thomas P. Gorman
Chapter 13 Trustee

COMES NOW, DEUTSCHE BANK NATIONAL TRUST COMPANY, as Trustee for
MORGAN STANLEY MORTGAGE LOAN TRUST 2004-11AR, MORTGAGE PASS-
THROUGH CERTIFICATES, SERIES 2004-11AR, its assignees and/or successors in interest,
(hereinafter “the Movant”), by counsel, and moves the Court for an Order Granting Relief from
the automatic stay of 11 U.S.C. § 362 (a) and 11 U.S.C. § 1301, for an Injunction Preventing
Subsequent Filings as to Movant, and for *In Rem* Relief as to the property located at 6204 Otter
Run Rd, Clifton, VA 20124, and in support thereof states as follows:

1. The bankruptcy court has jurisdiction over this contested matter pursuant to 28
U.S.C. § 157 and § 1334; 11 U.S.C. § 362; Federal Rule of Bankruptcy Procedure 9014 and; 11
U.S.C. § 1301(a). This matter is a core proceeding.

2. The above-named Debtor filed a Chapter 13 Petition in Bankruptcy with this Court on February 17, 2022.

3. Thomas P. Gorman has been appointed by this Court as the Chapter 13 Trustee in this instant Bankruptcy proceeding.

4. Movant is the current payee of a promissory note secured by a deed of trust upon a parcel of real property (hereinafter “the Property”) with the address of 6204 Otter Run Rd, Clifton, VA 20124 and more particularly described in the Deed of Trust dated April 15, 2004 and recorded as Deed Book 15919, Page 1480 among the land records of the said city/county, as:

Lot 73, Section 47, LITTLE ROCKY RUN, as the same appears duly dedicated, platted and recorded in Deed Book 6414 at page 1049, among the land records of FAIRFAX County, Virginia.

5. Movant is informed and believes, and, based upon such information and belief, alleges that title to the subject Property is currently vested in the name of the Debtor and the Co-Debtor.

6. Movant has elected to initiate foreclosure proceedings on the Property with respect to the deed of trust, but is prevented by the Automatic Stay from going forward with these proceedings.

7. The instant Bankruptcy petition was filed in bad faith and solely to delay Movant’s efforts to foreclose on its security interest in the above described property. In support thereof, Movant further states that the Debtor and Co-Debtor have filed the following bankruptcy petitions with the following results:

a.) Chapter 7 bankruptcy filed February 15, 2007

Case Number: 07-10341

Filed by Young K. Kun

Result: Closed without Discharge February 10, 2009

b.) Chapter 13 bankruptcy filed January 30, 2013

Case Number: 13-10448

Filed by Young Ki Yun

Result: Dismissed for Failure to File Information February 14, 2013

c.) Chapter 13 bankruptcy filed January 15, 2015

Case number: 15-10137

Filed by: Young Ki Yun

Result: Dismissed w/o Prejudice

d.) Chapter 13 bankruptcy filed July 6, 2015

Case number: 15-12330

Filed by: Young Sil Koh

Result: Dismissed w/o Prejudice

e.) Chapter 7 bankruptcy filed August 14, 2015

Case number: 15-12831

Filed by: Young Ki Yun

Result: Discharged

f.) Chapter 13 bankruptcy filed February 15, 2016

Case number: 16-10494

Filed by: Young Sil Koh

Result: Dismissed w/o Prejudice

g.) Chapter 13 bankruptcy filed March 13, 2017

Case number: 17-10818

Filed by: Young Ki Yun

Result: Dismissed w/o Prejudice

h.) Chapter 7 bankruptcy filed August 1, 2017

Case number: 17-12645

Filed by: Young Sil Koh

Result: Discharged

i.) Chapter 13 bankruptcy filed March 28, 2018

Case number: 18-11089

Filed by: Young Ki Yun

Result: Dismissed w/ Prejudice

j.) Chapter 13 bankruptcy filed June 12, 2019

Case number: 19-11947

Filed by: Young Ki Yun

Result: Dismissed w/ Prejudice

Sale scheduled 6/13/2019

k.) Chapter 13 bankruptcy filed September 4, 2019

Case number: 19-12938

Filed by: Young Ki Yun

Result: Dismissed w/ Prejudice

Sale scheduled 9/5/2019

l.) Chapter 13 bankruptcy filed December 10, 2019

Case number: 19-14027

Filed by: Young Sil Koh

Result: Dismissed w/ Prejudice

Sale scheduled 12/19/2019

m.) Chapter 13 bankruptcy filed March 3, 2020

Case number: 20-10676

Filed by: Young Sil Koh

Result: Dismissed w/ Prejudice

Sale scheduled 3/4/2020

n.) Chapter 13 bankruptcy filed June 25, 2020

Case number: 20-11523

Filed by: Young Sil Koh

Result: Dismissed w/ Prejudice

Sale scheduled 7/2/2020

o.) Chapter 13 bankruptcy filed September 3, 2021

Case number: 21-11528

Filed by: Young Ki Yun

Result: Dismissed w/ Prejudice

Sale scheduled 9/9/2021

p.) Chapter 13 bankruptcy filed February 17, 2022

Case number: 22-10173

Filed by: Young Sil Koh

Result: Open and pending

Sale scheduled 2/23/2022

8. The series of Sixteen (16) bankruptcy filings indicate lack of “good faith” on the part of Debtors, constitutes a substantial abuse of the Bankruptcy Code, and is cause to grant the relief prayed for in the instant bankruptcy case.

9. In case 21-11528, Young Ki Yun was found to have filed the case in bad faith , and Judge Kenney ordered the case dismissed with prejudice, a two year bar to filing, beginning on July 24, 2022, the expiration of a prior prejudice period, a provision that the automatic stay would not apply during the two-year period in which the Debtor is barred from filing (which is also a continuation of a provision from the prior order), and a criminal referral.

10. In case 20-11523, Young Sil Koh was found to have filed the case in bad faith, and Judge Kenney ordered an additional two year bar to filing, that the automatic stay would not be in effect until after the expiration of one year if the debtor violated the bar to filing by filing another case while barred, and *in rem* relief as to the property at issue here apparently for one year.

11. The Debtors’ pattern of successive bankruptcy filings indicates “bad faith” and an attempt to forestall any foreclosure actions undertaken by Movant. The Debtor and Codebtor have blatantly violated orders providing bars to filing future cases, and they took advantage of a loophole in the prior orders to file this case to stop a foreclosure.

12. That the Debtor is in default with regard to payments which have become due under the terms of the Note and Deed of Trust. As of March 1, 2022, the Debtors are contractually due for:

- Payments due from April 1, 2008: \$456,498.22
- Recoverable Balance: \$33,468.20
- Late Charges: \$1,497.65
- Total of: \$491,464.07

13. As of March 1, 2022, the total amount of indebtedness owed by the Debtor to the Movant is approximately \$764,583.26.

14. Movant is informed and believes, and, based upon such information and belief, alleges that absent the Court's Order allowing the Movant to proceed with the pending foreclosure, Movant's security will be significantly jeopardized and/or destroyed.

15. Continuation of the automatic stay of 11 U.S.C. § 362(a) as well as the Codebtor stay of 11 U.S.C. § 1301 will work real and irreparable harm and deprive the Movant of the adequate protection to which it is entitled under 11 U.S.C. § 362 and 11 U.S.C. § 1301 due to the aforementioned facts.

16. That the Movant has requested that the Court hear this matter on an expedited basis on March 17, 2022 at 1:30 p.m..

Wherefore, the Debtor having forsaken the legitimate use of the bankruptcy process, the Movant prays that the court enter in an order granting In Rem Relief for a Period of Two Years from the Automatic Stay of 11 USC § 362(a) and 11 U.S.C. § 1301, and ordering that a subsequent filing by the Debtor, Codebtor, or any party to which they may transfer the property, will not create a stay as to the property and will be ineffective as to the Movant and its assigns and/or successors. Movant further requests that the 14-day waiting period imposed by F.R.B.P. 4001(a)(3) be waived, and further ordering that the Movant may proceed to perform any and all acts necessary in order to obtain lawful possession of the property subsequent to any foreclosure sale. Movant further requests attorneys' fees and costs, and such further relief as the Court and equity deem justifiable.

LOGS LEGAL GROUP LLP
ATTORNEYS FOR THE MOVANT

Dated: 03/09/2022

/s/ Mary F. Balthasar Lake

BY: Malcolm B. Savage, III, Esquire

VS# #91050

William M. Savage, Esquire

VS# #26155

Mary F. Balthasar Lake, Esquire

VS# #34899

Gregory N. Britto, Esquire

VS# #23476

Randa Azzam, Esquire

VS# #31539

LOGS LEGAL GROUP LLP

10021 Balls Ford Road, Suite 200

Manassas, VA 20109

(703) 449-5800

logsecf@logs.com

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of March, 2022 the following person(s) were served a copy of the foregoing in the manner described below:

Via CM/ECF Electronic Notice:

Thomas P. Gorman
300 N. Washington St. Ste. 400
Alexandria, VA 22314

Chapter 13 Trustee

Via First Class Mail, Postage Prepaid:

Young Sil Koh
6204 Otter Run Rd
Clifton, VA 20124

Debtor(s)

Young Ki Yun
6204 Otter Run Rd
Clifton, VA 20124

Co-Debtor(s)

/s/ Mary F. Balthasar Lake

Malcolm B. Savage, III, Esquire

VSBS #91050

William M. Savage, Esquire

VSBS #26155

Mary F. Balthasar Lake, Esquire

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PHH Mortgage Services
1 Mortgage Way
Mt. Laurel NJ 08054

Tel 877-688-7116
Fax 856-917-8003

****IMPORTANT NOTICE****

Upon written request, PHH Mortgage Services will provide the following information regarding the subject loan:

- * A copy of the payment history through the date the account was last less than 60 days past due.
- * A copy of the note.
- * If foreclosure has been commenced or a POC has been filed, copies of any assignments of mortgage or deed of trust required to demonstrate the right to foreclose on the borrower's note under applicable state laws.
- * The name of the investor that holds the loan.

Requests for this information/documentation can be sent to us at the following address:

PHH Mortgage Services
Mailstop SBRP
PO Box 5469
Mt. Laurel, NJ 08054

This notice is being provided for informational and compliance purposes only. It is not an attempt to collect a debt.